

FISCAL NOTE

Bill #: HB0532

Title: Final payment on public construction projects within 60 days of completion

Primary

Sponsor: Shiell Anderson

Status: As introduced

Sponsor signature	Date	Dave Lewis, Budget Director	Date
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Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:		
State Special Revenue	\$20,500	\$27,300
Federal Special Revenue	81,900	109,200
Revenue:		
Federal Special Revenue	\$81,900	\$109,200
Net Impact on General Fund Balance:	\$0	\$0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. All state agencies involved in the construction of buildings intend to comply with the provisions of HB 532, subject to the following additional assumptions.
2. Substantial completion of a building does not mean final acceptance. Final acceptance requires the contractor to complete incorrect/damaged/non-compliant items.
3. Upon "substantial completion", the contractor is paid for the project (including retainage), less 1.5 to 2 times the value of the deficiencies. The building industry accepts the "1.5 to 2 times" as that amount necessary for another contractor to complete deficiencies should the first contractor not complete.
4. The 60 day period should commence when the invoice for the substantial completion is received.

(continued)

5. The Department of Transportation (DOT) is impacted in their payment for road construction in Section 2. DOT currently has a 120 day final payment schedule, but progress payments usually range from 95% - 99% receipts prior to the final payment phase commencing.
6. In order to condense the period from 120 days to 60, the DOT would require an additional 5.00 FTE “checkers” (grade 12) to be distributed three in district offices and two in the central office. The cost per year in the next biennium would be \$136,500. The federal portion of that amount is 80%.
7. For the DOT, the 120 day clock will start when the certificate of completion is approved.

FISCAL IMPACT:

Dept. of Transportation

	<u>FY2000</u> <u>Difference</u>	<u>FY2001</u> <u>Difference</u>
FTE	3.75	5.00

Expenditures:

Personal Services	\$102,400	\$136,500
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Funding:

State Special Revenue (02)	\$20,500	\$27,300
Federal Special Revenue (03)	<u>81,900</u>	<u>109,200</u>
TOTAL	\$102,400	\$136,500

Revenues:

Federal Special Revenue (03)	\$81,900	\$109,200
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Net Impact to Fund Balance (Revenue minus Expenditure):

State Special revenue (02)	(\$20,500)	(\$27,300)
Federal Special Revenue (03)	\$0	\$0

TECHNICAL NOTES:

1. The meaning of the phrase “unless otherwise provided by law or the contract and within 60 days after completion of building” in Section 1(1) is not clear.
2. Section 17-8-242 requires state agencies to pay interest if the agency does not make payment within 30 days of receipt of an invoice. The interplay between that statute and Section 1(2) is not clear.
3. Section 1 appears to require payment within 60 days of substantial completion whether or not the contractor has submitted an invoice. The 60-day period should not commence until receipt of an invoice, except for the DOT, in which case it is the acceptance of the certificate of completion.